

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DON LIPPERT, *et al.*,) Docket No. 10 C 4603
Plaintiffs,) Chicago, Illinois
v.) March 28, 2019
JOHN BALDWIN, *et al.*,) 9:33 a.m.
Defendants.)

TRANSCRIPT OF PROCEEDINGS - Motion Hearing
BEFORE THE HONORABLE JORGE L. ALONSO

APPEARANCES:

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1 APPEARANCES (Cont'd.):

2 Also Present: MS. KELLY D. PRESLEY
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4 Illinois Department of Corrections

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1 (In open court.)

2 THE CLERK: 10 C 4603, Lippert v. Ghosh.

3 MR. HIRSHMAN: Good morning, your Honor. Harold
4 Hirshman.

5 MS. BENNETT: And Camille Bennett for the plaintiffs.
6 Nicole Schult is with us as well.

7 MR. FLETCHER: Good morning, your Honor. Christopher
8 Fletcher from the Office of the Attorney General on behalf of
9 defendants.

10 MR. ARNOLD: Good morning, your Honor. Mike Arnold,
11 also on behalf of defendants.

12 MS. PRESLEY: Kelly Presley, Department of
13 Corrections.

14 THE COURT: Okay. We are here regarding the issue of
15 the selection of the monitor. The consent decree was
16 preliminarily approved back in January, on January 10th. We
17 are set for fairness hearing on May 3rd of 2019. And, again,
18 today we're here for the selection of the monitor.

19 I want to start by thanking the parties and commending
20 the parties for their good-faith efforts and best efforts to
21 try to come to an agreement in that regard. But despite those
22 efforts, the parties were unable to do that. They floated
23 11 possibilities back and forth, but, again, no agreement.

24 So what resulted was a proposal by each side regarding
25 two experts. And each side was able to respond to the other

1 side's recommendations. I, of course, reviewed all of that.
2 It is fully briefed. And Documents 109 and 113 involve the
3 plaintiffs' submissions, and 108 and 111 involve the
4 defendants' submissions. And, of course, all four finalists,
5 if you will, are qualified and would do a great job.

6 But after reviewing those briefs and the supporting
7 documents -- obviously including the CVs of these individuals,
8 all highly qualified -- it is clear to me that the best
9 candidate and the right candidate is Dr. Jack Raba -- Raba,
10 R-A-B-A. Again, I think he's the right candidate based on
11 training, based on experience, based on exposure to this
12 system, without involving some of the concerns that the
13 defendant had about Dr. Puisis. And also I think it's
14 important that availability is better when it comes to
15 Dr. Raba.

16 MS. BENNETT: "RAY-ba," your Honor.

17 THE COURT: Raba.

18 Anything else from the defense regarding that
19 selection?

20 MR. ARNOLD: No, your Honor.

21 THE COURT: Okay. So that is our monitor.

22 And anything else that we need today in terms of the
23 duties of the monitor? Has that all been resolved?

24 MR. HIRSHMAN: I don't believe so, your Honor.

25 THE COURT: And the defense -- the plaintiffs included

1 a section regarding the duties of the monitor under the
2 proposed consent decree.

3 MR. HIRSHMAN: Yes, your Honor.

4 MS. BENNETT: And, your Honor, they're spelled out in
5 the consent decree in some detail.

6 THE COURT: Okay. So how do you suggest we proceed at
7 this point? Do we need an order regarding that appointment,
8 that selection and those duties?

9 MR. HIRSHMAN: Yes, your Honor.

10 THE COURT: And, Mr. Fletcher, is that going to be an
11 agreed order? Have the parties agreed as to those duties and
12 the parameters of the monitor?

13 MR. FLETCHER: Yes. Consistent with the consent
14 order, yes.

15 THE COURT: Okay. I'll ask the parties to submit a
16 proposed order today. I'll enter that order. As I stated,
17 we're set for fairness on May 3rd at 11:00. So I'll see
18 everybody back here then.

19 In the meantime, we've got a flurry of activity as
20 anticipated. The plaintiffs are feeling unappreciated, I'm
21 sure. But you saw this coming, and you've got a plan in
22 place --

23 MR. HIRSHMAN: We do.

24 THE COURT: -- regarding collecting, organizing, and
25 presenting those objections?

1 MR. HIRSHMAN: Yes, your Honor. It seems to be
2 operating appropriately. Actually, despite the significant
3 number of filings, it's actually less than I expected. We're
4 only at about 220 right now out of a class of 40,000.

5 THE COURT: But it's early?

6 MR. HIRSHMAN: Yeah.

7 THE COURT: Okay. So anything else that we need to do
8 today?

9 MR. FLETCHER: Judge, we're just a little confused
10 because there are a lot of filings of the objections. Like,
11 for instance, last night, there were a number of them. And we
12 thought that those would not be filed with the Court and clog
13 up your Honor's docket. I don't -- I just don't know if that's
14 something we can discuss because it's not what we thought.

15 THE COURT: The notices were posted, and this is what
16 has resulted.

17 MR. HIRSHMAN: Yes, your Honor. They go to the
18 administrator, and then the administrator uses Ms. Bennett's
19 access to the system, if I have that right, in order to post.
20 You know, in other cases, there's been direct posting. This
21 seems -- while I understand that it leads to a number of
22 entries on the docket, I'm -- I don't believe that it's -- I
23 think it's appropriate that there be a public record of what
24 was posted.

25 THE COURT: Okay. All right.

1 And I'll ask the parties to continue to work together
2 to see if they can come to an agreement regarding the
3 presentation of those objections, not -- it may or may not have
4 been the best way to proceed. We have no lack of entries on
5 that docket. As I stated, we're up in the 800s on this very,
6 very old case. But we'll proceed the way it's proceeding so
7 far.

8 And, again, the parties can continue to try to figure
9 out the best way to move forward on the presentation and the
10 resolution of those objections, or the best way to present the
11 issue for resolution on the objections.

12 And as far as I can tell, as anticipated, they are
13 objections based on fiscal concerns, correct?

14 MS. BENNETT: Your Honor, many of them are related to
15 the unavailability of money damages in this case, which is just
16 sort of, you know -- you know, not what this case is about.

17 And there's also people who are concerned that it's
18 going to interfere with their own case, in many cases, for
19 money damages. Again, that's not a concern here.

20 There are a few substantial objections, and by that I
21 mean ones that are really directed at the substance of the
22 consent decree. And since the parties have briefing due at the
23 end of April concerning the fairness of the settlement, we'll
24 certainly be taking up those substantial objections in the
25 briefing.

1 THE COURT: Wonderful.

2 MS. BENNETT: Your Honor, one other thing --

3 THE COURT: Yes, Ms. Bennett.

4 MS. BENNETT: -- I should probably report is that, as
5 I think the Court was informed, because your Honor approved a
6 supplemental notice, the parties did reach an agreement about
7 the attorneys' fees in the case. And then subsequent to that,
8 we reached an agreement about the costs. So we'll be
9 submitting a separate motion, together with the fairness
10 briefing, for your Honor's approval of the fees and the costs.

11 THE COURT: But that will still be noticed up for
12 May 3rd --

13 MS. BENNETT: Yes --

14 THE COURT: -- or before?

15 MS. BENNETT: -- your Honor.

16 THE COURT: Okay. All right.

17 Thank you again. And we'll see everybody back here on
18 May 3rd.

19 MR. FLETCHER: May 23rd or May 3rd, your Honor?

20 THE COURT: May 3rd.

21 MR. FLETCHER: Okay. Thank you.

22 THE COURT: Right? Thank you.

23 MR. FLETCHER: Thank you, Judge.

24 MS. BENNETT: Thank you.

25 (Concluded at 9:41 a.m.)

1 C E R T I F I C A T E

2 I certify that the foregoing is a correct transcript of the
3 record of proceedings in the above-entitled matter.

4

5 /s/ LAURA R. RENKE
6 LAURA R. RENKE, CSR, RDR, CRR
Official Court Reporter

June 18, 2019

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